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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re D.F. et al.,

Persons Coming Under the
Juvenile Court Law.

B293681

(Los Angeles County
Super. Ct. No. 18CCJP05277)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

CASSANDRA J.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los
Angeles County, Danette J. Gomez, Judge. Dismissed.

Joseph D. Mackenzie, under appointment by the Court of
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,
Assistant County Counsel, and Brian Mahler, Deputy County
Counsel, for Plaintiff and Respondent.

Cassandra J. (Mother) appeals from a jurisdiction/disposition order declaring her two daughters, D.F. and C.F., to be dependent children of the court under Welfare and Institutions Code section 300, subdivisions (a), (b), and (j),¹ and placing them in her home under the supervision of the Department of Children and Family Services (DCFS). Mother contends there is no substantial evidence to support the sustained allegations as to her. DCFS argues that because there is substantial evidence to support the sustained allegations as to D.F. and C.F.'s father (Father), there is no justiciable controversy and the appeal should be dismissed. We agree with DCFS and dismiss the appeal.

BACKGROUND

Just before 9:00 p.m. on June 25, 2018, Mother made a 911 call to the Los Angeles Police Department, requesting assistance for herself and her daughters. When the police arrived at the home, they took statements from Mother; 14-year-old D.F.; the maternal grandmother, C.H. (Grandmother); the maternal uncle, L.C.; and another witness, Melissa G. All five told the police the

¹ All further statutory references are to the Welfare and Institutions Code.

same story: They were at a party. Mother and Father got into a verbal altercation because Mother did not want to get into Father's car and go for a ride. The family separated the two by taking Mother into the backyard. D.F. attempted to intervene. Father began to strangle her with both hands and shoved her against a wall. Father then entered his car and drove forward toward Grandmother, L.C. and Melissa. Father next reversed his car, hitting Grandmother's parked car, and drove away. Seven-year-old C.F. was present at the party and witnessed the incident.

The following day, DCFS received a referral. A children's social worker (CSW) made an unannounced visit to the family's home on July 10, 2018. Mother told the CSW that the children live with her; she and Father have no family court orders for custody, support, or visitation, though the children visit with Father a few times a month. Mother denied any history of domestic violence between her and Father. Mother acknowledged that Father came to the party and became upset when she refused to leave the party with him. Mother denied that Father strangled D.F. and pushed her against a wall; she denied that Father tried to run people over with his car; and she denied that C.F. witnessed what happened. Mother denied that she or D.F. said the things that the police reported.

The CSW interviewed Grandmother, who similarly denied any domestic violence between Mother and Father. She denied that Father had strangled D.F. or that Mother told the police that he had done so.

D.F. also denied that Father had strangled her, pushed her into a wall, or tried to run people over with his car. D.F. told the CSW she did not know where those allegations came from. D.F.

denied seeing Father and Mother hit one another, and she said Father never hit her or C.F. The CSW then interviewed C.F., who denied seeing Father and Mother hit one another. She said that during the party, she was in the house with her cousins; she did not see Father hit anyone or try to run anyone over with his car.

The CSW spoke to Father by telephone on August 8, 2018. He explained that Mother called the police on the day of the party because they had an argument and she was angry with him. Father denied any domestic violence and denied ever hitting D.F. and C.F.

The following day, the CSW received a copy of the police call report for Mother's address. The report indicated that Mother had made two previous calls to the police regarding domestic violence. On January 2, 2017, Mother called the police to report that Father physically assaulted her. On May 22, 2018, a call to police conveyed that Mother was armed with a knife and was threatening to cut her ex-boyfriend;² the ex-boyfriend had yelled at her and threatened to assault her. At some point, Mother advised the police that they were no longer needed; she was involved in an ongoing dispute with the ex-boyfriend and was going to seek a restraining order.

DCFS filed the section 300 petition on August 20, 2018. It alleged that Father physically abused D.F. by choking her and shoving her into a wall; Mother failed to protect D.F. by allowing Father access to her. These factors placed both D.F. and C.F. at risk of serious physical harm. (Counts a-1, b-1 & j-1.) The

² The call report did not identify the ex-boyfriend. Mother denied knowing anything about the call.

petition also alleged that Father was a registered controlled substance offender; he had a criminal history involving drugs and alcohol, and his history and conduct placed the children at risk of serious physical harm. (Count b-2.)

At the detention hearing on August 21, 2018, the juvenile court found a prima facie case for detention and ordered D.F. and C.F. detained from Father. It ordered the children released to Mother under DCFS supervision.

The October 15, 2018 jurisdiction/disposition report indicated that D.F. and C.F. continued to deny that Father had physically abused D.F. or tried to run people over with his car. They also denied being coached or instructed to lie about what happened.

The dependency investigator reported that he had interviewed Grandmother on September 26, 2018. Grandmother told the dependency investigator: “I’ve talked to my daughter about him many times. He has a problem. He doesn’t know how to control his anger. He’s disrespect[ed] her many times. He doesn’t hit her or [the children], he just has a nasty mouth.” (Bold and underscoring omitted.) Grandmother said that on the day of the party, D.F. told Father to leave Mother alone. Father grabbed D.F. by the neck and pushed her out of the way. Grandmother said the children were not telling the truth about what happened “because they’re scared. They’re scared that ya’ll [sic] are going [to] take them . . . away and send them to foster care.” She then reiterated that Father had anger problems and did not know how to control himself.

In a last minute information for the court, the dependency investigator reported that he spoke to Father by phone on October 19, 2018. Father told him: “I don’t want anything to do

with those kids anymore. I'm done with them. I told that to my attorney. I don't want to have [anything] to do with any of this. . . . There was no scuffle. Nothing happened. I left the house, that was it. . . . I've never whooped my daughter. Ever. I didn't hit her or anyone. . . . And I would appreciate it if all of y'all would stop calling me. I need to be left alone about this."

The dependency investigator added that Mother had not made herself available for an interview, and he had not spoken to her.

D.F. testified at the November 1, 2018 jurisdiction/disposition hearing. She testified that Father did not touch her during the incident at the party. She knew that the police report said that Father had choked her. She misled the police about the choking as "a way out to get away from my father because it's just a mess basically with him involved in our lives." She "lied to the police to help get him away." She denied that she was afraid of Father but explained: "I want him to get away because he never even been in my life. So, therefore, it doesn't matter for him to be in my life now. So that was a way to get him away then. It was just a way."

On cross-examination, D.F. testified that she knew Father was going to be at the party, because he was supposed to bring food. Before he arrived, she did not discuss with Mother her plan to lie about him or that she wanted him out of her life. She just made the decision that day; "when that whole accident happened that's when—it was like a time for him just to go." She was "just tired of" his issues. D.F. also testified that she was not aware that Mother told the police the same thing she told them. She denied discussing with Mother that they would both tell the same lie.

The juvenile court, in making its ruling, noted that it “has to assess the credibility of all witnesses and also the statements made by witnesses although they weren’t called to testify but their statements were admitted to this court and there was no objection to their admission.” The police report reflected statements by all witnesses at the time of the incident that Father became upset and started to strangle D.F. “And not only that, it’s the statement made when the call is made for help. It’s in the mobile data transmission and also the attachments in the report. So you take a statement that’s made very, very close in time to the incident by someone who is calling for help. And it’s hard to dispute that it has the ring of truth at that point.”

The court did not find D.F.’s testimony to be credible and believed that she lied, probably to protect Mother. The court found the statements made to the police at the time of the incident to be credible.

Regarding the failure to protect allegations, the court was concerned that people at the party removed Mother from a volatile situation, but “[w]hy [D.F.] would have been left behind I don’t understand.” The court was also concerned about Grandmother’s subsequent statement to the dependency investigator that she had talked to Mother many times about Father’s problems with anger and his inability to control himself.

The court found “[t]his was a person that Mother was in a relationship with and had children with. So the court finds that Mother did fail to protect in this instance armed with knowledge. And so the court is going to sustain the petition.”

The court sustained the petition as to all three counts and found the children to be persons described by section 300, subdivisions (a), (b), and (j). Declaring the children to be

dependents of the court, the judge removed them from Father's custody, and placed them with Mother. The court ordered Mother to participate in a parenting class and individual counseling. It ordered DCFS to provide Mother with family maintenance services.

DISCUSSION

DCFS requested in its respondent's brief that we dismiss this appeal for lack of justiciability. Mother did not file a reply brief contending that we should nonetheless address her claim that the jurisdictional findings as to her are not supported by substantial evidence. We see no basis for reaching the merits of Mother's appeal and accordingly dismiss it.

As a general rule, "it is necessary only for the court to find that one parent's conduct has created circumstances triggering section 300 for the court to assert jurisdiction over the child. [Citations.]" (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491.) Therefore, "it is irrelevant which parent created those circumstances. A jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established. [Citation.] . . . For this reason, an appellate court may decline to address the evidentiary support for any remaining jurisdictional findings once a single finding has been found to be supported by the evidence. [Citations.]" (*Id.* at p. 1492.)

"However, we generally will exercise our discretion and reach the merits of a challenge to any jurisdictional finding when the finding (1) serves as the basis for dispositional orders that are also challenged on appeal [citation]; (2) could be prejudicial to the

appellant or could potentially impact the current or future dependency proceedings [citations]; or (3) ‘could have other consequences for [the appellant], beyond jurisdiction’ [citation].” (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762-763; accord, *In re M.W.* (2015) 238 Cal.App.4th 1444, 1452.)

Here, Mother does not challenge the sufficiency of the evidence to support the exercise of jurisdiction based on Father’s conduct. Neither does she challenge the dispositional order. The children were placed with her under DCFS supervision. While the juvenile court required her to participate in parenting classes and individual counseling, it could have done so even without a jurisdictional finding as to her. (*In re I.A.*, *supra*, 201 Cal.App.4th at p. 1492; see *In re D.M.* (2015) 242 Cal.App.4th 634, 647, dis. opn. of Chavez, J.)

Mother has identified no potential prejudice or other consequences beyond the juvenile court’s exercise of jurisdiction over the children. Consequently, we see no reason to address Mother’s challenge to the jurisdictional findings. (*In re J.C.* (2014) 233 Cal.App.4th 1, 4; *In re I.A.*, *supra*, 201 Cal.App.4th at p. 1492.)

DISPOSITION

The appeal is dismissed.
NOT TO BE PUBLISHED

JOHNSON, J.

We concur:

ROTHSCHILD, P. J.

WEINGART, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.